

## Notice of Allowability

Application No.

10/729,234

Examiner

Shelley Self

Applicant(s)

THOMAS, ROGER

Art Unit

3725

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/19/05.
2. ☒ The allowed claim(s) is/are 1-13.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

DERRIS H. BANKS

SENIOR PATENT EXAMINER  
BIOLOGY CENTER 3700

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed on August 29, 2005 is sufficient to place the application in condition for allowance.

### ***Terminal Disclaimer***

The terminal disclaimer filed on October 19, 2005 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Priority***

Receipt is acknowledged of papers (GB0308565.1) submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Allowable Subject Matter***

Claims 1-13 are allowed.

The following is an Examiner's statement of reasons for allowance: The prior art of record does not disclose or fairly suggest a planer comprising a *removable deflector insertable through the exhaust aperture and connectable to the conduit and a flap movable from a first position where the flap closes the exhaust aperture to a second position where the flap does not close the exhaust aperture* in combination with the rest of the claimed limitations as set forth in claim 1.

The prior art Bellew et al. (5,463,816) discloses a planer comprising a shoe, the shoe defining an aperture (fig. 5); a body mounted on the shoe (fig. 5); the body including a wall and the wall defining a recess and an exhaust aperture; a cutting drum (28) rotatably mounted within the recess, the drum having a periphery and a portion of the periphery of the cutting drum projecting through the aperture; a motor (24) for rotatingly driving the cutting drum; a cutting blade (40) mounted on the periphery of the drum; an airflow generator (26) for producing an airflow within the body for entraining and removing debris created by the cutting action of the blade; a conduit (42) defined within the body for directing the airflow, the conduit connected to the recess by the exhaust aperture; and wherein the debris entering the conduit through the exhaust aperture travels substantially in a first direction (direction arrows fig. 5) and the air flow through the conduit adjacent to the exhaust aperture travels substantially in a second direction. Bellew further discloses a deflector (12) assembly including a nozzle (56) wherein the deflector assembly (12) is removably insertable and positionable into the planer body through the exhaust aperture for guiding the airflow and entrained debris from within the body to outside of the body. Bellew does not disclose a removable deflector and *a flap movable from a first position where the flap closes the exhaust aperture to a second position where the flap does not close the exhaust aperture*. Bellew is silent to any removable deflector and flap combination. Accordingly Bellew fails to anticipate or render obvious the claimed invention as set forth in claim 1.

Zaiser et al. (4,601,104) discloses a planer having a shoe, the shoe (fig. 1) defining an aperture (Examiner notes the opening where the periphery of the cutting drum 4 protrudes), a body (1) mounted on the shoe, a cutting drum (4) having cutting blades (fig. 1) rotatably

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mounted within a recess defined by the body. Zaiser further discloses a motor (2) for driving the cutting drum and an airflow generator (7) for producing airflow within the body to facilitate removal of debris from the body. Zaiser also discloses a conduit defined by the body. Zaiser does not disclose *a deflector insertable into the planer body* and instead discloses a flap; the flap being pivotable to facilitate expulsion of the debris/chips from either side of the planer body housing (fig. 2). Therefore, Zaiser is silent to any removable deflector and flap combination. Accordingly Zaiser fails to anticipate or render obvious the claimed invention as set forth in claim 1.

Although Bellew discloses a removable deflector and Zaiser discloses a pivotal flap within the planer body, there is no motivation to combine the references and to do so would be impermissible hindsight reconstruction. Thus neither Bellew nor Zaiser alone or in combination disclose the claimed invention as set forth in claim 1.


Neither the prior art of record alone or in combination thereof discloses the claimed invention as set forth in claim 1. Therefore, claims 1-13 are deemed allowable over the prior art of record.

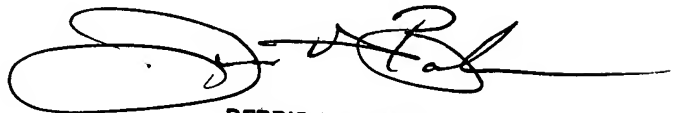
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on accessing the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf   
December 7, 2005



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